



Office of the Mayor
City of Columbus
Ohio

COMMERCIAL DRIVER'S LICENSE DRUG AND ALCOHOL TESTING POLICY and IMPLEMENTATION PROCEDURES

I PURPOSE

The Purpose of this policy is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles. This is being done to comply with the requirements of the Omnibus Transportation Employee Testing Act of 1991, as amended, (hereinafter "the Act"), rules and regulations (hereinafter "the Rules"), promulgated pursuant thereto by the U.S. Department of Transportation, Federal Highway Administration, as well as to expand the City's current Drug Free Workplace Policy.

II POLICY STATEMENT

It shall be the policy of the City that all employees holding Commercial Driver's Licenses (CDL) are prohibited from performing, and the City as the employer is prohibited from using a driver to perform, safety-sensitive functions while under the influence of alcohol or drugs, and/or after a positive drug test result or an alcohol test

Result indicating a 0.02 Blood Alcohol Concentration (BAC), regardless of whether or not the driver is under the influence of alcohol or drugs, as defined in Federal, State, or Local law. Furthermore, no driver shall drive a Commercial Motor Vehicle (CMV) while possessing any product containing alcohol, regardless of its alcohol content, including medication, food, or other alcohol-containing products that are not specifically manifested to be on the vehicle.

Coverage

Who Is Subject to Testing

All employees who operate equipment requiring a CDL, and who perform safety-sensitive functions, are subject to the alcohol and controlled substance testing requirements. Only those drivers who have received full waivers from the CDL requirements are waived from the testing requirements.

2. Implementation Dates

Implementation date of this alcohol and controlled substances testing policy shall be January 1, 1995.

B. Types of Tests

Before performing an alcohol or controlled substances test, the City shall notify all covered employees that they are subject to these tests.

1. Pre-Employment

A pre-employment test is required for a driver prior to be appointed to a position that requires performance of a safety-sensitive function. No driver shall perform safety-sensitive functions unless the driver has been administered an alcohol test with a result indicating an alcohol concentration less than 0.04, and has received a controlled substances test result from the medical review officer indicating a verified negative test result. If the alcohol test results in a blood alcohol concentration (BAC) level of 0.02 to 0.039, the driver will not be allowed to perform safety-sensitive functions until a subsequent test results in a BAC level of less than 0.02, or until the next scheduled duty period, if it is not less than 24 hours following the test.

If a driver has been alcohol tested within the prior six months, with a result of less than 0.04 BAC and no other violation of these rules, the driver is exempt from a pre-employment alcohol test (if this information is acquired from the previous employer).

A driver may be exempted from a controlled substances test if: the driver has participated in a drug testing program, within the previous 30 days, that meets the requirements of the Act; and while participating in that program was either tested for controlled substances within the past 6 months or participated in a random controlled substances testing program for the previous 12 months (from the date of application with the employer); and the City ensures that no prior employer of the driver, of whom the City has knowledge, has records of a violation of the rules of the Act or the controlled substances use rule of another DOT agency within the previous 6 months.

2. Post Accident

Drivers involved in an accident involving the loss of life; and/or, who receive a citation under State or local law for a moving traffic violation arising from the accident, will be required to be tested for alcohol and controlled substances. If the alcohol test is not administered within 2 hours following the accident, the City must document and keep on file the reasons for not performing the test. If the test is not administered within 8 hours following the accident, the City shall cease any effort to administer the test, and again document and keep on file the reasons why. If a controlled substances test is not performed within 32 hours following the accident, the City shall cease attempts to administer a test and prepare and maintain on file a record stating the reasons the test was not promptly administered.

No driver required to take a post-accident alcohol test under this rule shall use alcohol for 8 hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever first.

3. Random

The Provider will randomly select a number of covered employees at various times during each year for unannounced alcohol and/or controlled substances testing. The minimum annual percentage rate for random alcohol testing shall be 10 percent of the average number of covered employees. The minimum annual percentage rate for random controlled substances testing shall be 50 percent of the average number of covered employees.

The rules provide for a performance-based sliding scale random rate based on industry-wide data on alcohol violations. A decrease in the random rate for alcohol testing will require two years of qualifying data, and the increase in the rate would require only one year of data. For example:

- The 25% rate will increase to 50% if the industry violation rate in any year is one percent or higher.
- If the industry violation rate were less than 0.5% for two consecutive years, the 25% rate would be decreased to 10%.
- If the industry violation rate is less than 1% but greater than 0.5% during a given year, the random testing rate will be 25% for the following year. If the random rate is at 50%, and the violation rate is in this range for two years, the rate will be lowered to 25%.

In accordance with the rules, the City will combine random drug and alcohol testing. For example, when the City tests at a 25% alcohol random rate and a 50% drug random rate, half of the randomly selected drivers chosen for testing will be tested for both drugs and alcohol, while the rest will be tested only for drugs.

4. Reasonable Suspicion

The City shall require a driver to submit to an alcohol and/or controlled substances test when the LRC has determined that there is reasonable suspicion to believe that the driver is under the influence of alcohol and/or a controlled substance while performing a safety-sensitive function. The LRC's determination that reasonable suspicion exists to require the driver to undergo an alcohol and/or controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver. The observations may include indications of the chronic and withdrawal effects of controlled substances. The required observations for alcohol and/or controlled substances reasonable suspicion testing shall be made by a supervisor who has undergone training to recognize the physical,

Similar to the post-accident test, if the alcohol test is not administered within 2 hours following the reasonable suspicion determination, the city must document and keep on file the reasons the alcohol test was not promptly administered. If the test is not administered within 8 hours following the determination, the City shall cease any effort to administer the test, and again document and keep on file the reasons why. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not conduct the alcohol test of the driver.

The City shall take no action against a driver based solely on the driver's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test. This does not prohibit the City from taking any action otherwise consistent with law.

A written record shall be made of the observations leading to a controlled substances reasonable suspicion test, and signed by the supervisor or person who made the observation, within 24 hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier.

5. Return-to-Duty

The City, through the LRC, shall ensure that, before a driver returns to duty requiring the performance of a safety-sensitive function after engaging in prohibited conduct concerning alcohol and/or controlled substances, the driver shall: 1) have undergone a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02, and/or a return-to-duty controlled substances test with a result indicating a verified negative result for controlled substances use; and 2) have completed an alcohol/drug assessment and be in compliance with any ongoing treatment recommendations.

A driver is prohibited from performing safety-sensitive functions as a result of testing positive for either alcohol or controlled substances may be assigned to non-safety sensitive functions until such time as the driver complies with the requirements for returning to duty.

6. Follow-Up

Each covered driver, who has been identified by a Substance Abuse Professional (SAP), from the City's Employee Assistance Program (EAP), as needing assistance in resolving problems with alcohol misuse or controlled substance use and who has returned to performing a safety-sensitive function, shall be subject to a minimum of 6 unannounced follow-up tests administered by the City over the following 12 months. Follow-up testing may be extended for up to 60 months following return-to-duty.

Refusal to Submit to Required Test

No driver shall refuse to submit to a post-accident, random, reasonable suspicion or follow-up alcohol or controlled substances test. No driver who refuses to submit to such tests shall perform or continue to perform safety-sensitive functions.

C. Methods of Testing

Controlled Substances

Controlled Substances testing are conducted by analysis of a urine specimen. The analysis is performed at laboratories certified and monitored by the Department of Health and Human Services (DHHS). Drug testing procedures for commercial motor vehicles include split specimen procedures, in which each urine specimen is subdivided into two bottles, a primary and a split specimen. Both bottles are sent to a laboratory. The primary specimen is opened and used for the urinalysis, the split specimen remaining sealed. Should the analysis of the primary specimen confirm the presence of illegal, controlled substances, the employee has 72 hours to request the split specimen be sent to another DHHS certified laboratory for analysis, at the employee's expense.

The urine specimens are analyzed for the following drugs:

- Marijuana (THC metabolite)
- Cocaine
- Amphetamines
- Opiates (including heroin)
- Phencyclidine (PCP)

The testing is done in a two-stage process. First, a screening test is performed. If it is positive for one or more of the drugs, then a confirmation test is performed for each identified drug using state-of-the-art gas chromatography/mass spectrometry (GC/MS) analysis. GC/MS confirmation ensures that over-the-counter medications or preparations are not reported as positive results.

2. Alcohol

The alcohol test requires breathe testing using evidential breath testing devices (EBT) approved by the National Highway Traffic Safety Administration (NHTSA). Two breath tests are required to determine if a person has a prohibited alcohol concentration. First, a screen test is conducted, with any result less than 0.02 alcohol concentration considered a negative test. If the alcohol concentration is 0.02 or greater, a second or confirmation test must be conducted. The confirmation test, if required, must be conducted using an EBT that prints out the results, date and time, a sequential test number, and the name and serial number of the EBT to ensure the reliability of the test. The confirmation test result determines any actions taken.

III. VIOLATIONS, CONSEQUENCES AND PENALTIES

A. Prohibited Conduct

The following shall be considered prohibited conduct for the purpose of this policy:

- No driver shall report for duty or remain on duty while having an alcohol concentration of .02 or greater.
- No driver shall be on duty or operate a motor vehicle while the driver possesses alcohol.
- No driver shall use alcohol while performing safety-sensitive functions.
- No driver shall perform safety-sensitive functions within four (4) hours after using alcohol.
- No driver required to take a post-accident alcohol test shall use alcohol for eight hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.
- No driver shall refuse to submit to a post-accident, random, reasonable suspicion, return-to-work, or follow-up drug and/or alcohol test.
- No driver shall report to duty or remain on duty when the driver uses any controlled substance, except when use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to operate a motor vehicle.
- No driver shall report for duty, remain on duty or perform a safety-sensitive function if the driver tests positive for controlled substances.

If the City has actual knowledge or has reason to believe that a covered employee has engaged in prohibited conduct, the City may require that driver to submit to drug and/or alcohol testing. (See section II B. 4.)

Any covered employee who engages in prohibited conduct shall be provided with the name, address, telephone number and qualifications of a substance abuse professional from the City's Employee Assistance Program.

B. Other Alcohol-Related Conduct

No driver shall report for duty or remain on duty while having an alcohol concentration of 0.02 or greater but less than 0.04.

C. Consequences and Penalties

Employees who engage in prohibited conduct set out in section III A. shall be subject to the provisions of sections II B.5. and IV C.

No driver who is found to have an alcohol concentration of 0.02 or greater but less than 0.04, as set out in section II 5., shall perform or continue to perform safety-sensitive functions until the start of the driver's next regularly scheduled duty period but no less than 24 hours following administration of the test.

After an employee has tested positive the first time, whether the positive occurs as a result of a random, post-accident or reasonable suspicion test, that employee will be relieved of duty and referred to the EAP for education and rehabilitation, as deemed

appropriate by the EAP staff. That employee will not be disciplined because of a first positive test for violating this policy, but will be counseled and warned that a second positive will result in disciplinary action, including termination. Employees will be given a written memorandum of the meeting during which the warning was given (see attached form). During the time employees are off duty after having tested positive for drugs or alcohol, they may use any accrued vacation leave or compensatory time to cover their absence. If they have no accrued vacation leave or compensatory time, they will be carried on the payroll in PERSONAL leave without pay status.

While an employee will not be disciplined for the first positive itself, he may be disciplined for violating any of the City Work Rules or personnel policies which may have occurred in conjunction with that positive test. Example: If an employee tests positive on a post-accident test, he may be subject to discipline for carelessness or negligence in performing his job duties because of the accident, in violation of City Work Rules, even though he would not be disciplined for the positive itself and the positive would not be evidence of violating another work rule.

Absent extraordinary circumstances, any employee testing positive for a second time, whether on a random, post-accident, reasonable suspicion or follow-up test, will be terminated from City employment. In all respects, including determining when an employee has tested positive a second time, a constructive positive, i.e., an employee's refusal to submit to testing, will be treated the same as an actual positive. Example: If an employee is considered to have tested positive because he refuses to submit to a random test, and subsequently tests positive on an actual test after he returns to work, he will be terminated, absent extraordinary circumstances.

This section (Section III C.) of this policy shall become effective on January 31, 1997.

IV ALCOHOL MISUSE AND CONTROLLED SUBSTANCE USE INFORMATION, TRAINING AND REFERRAL

A. Information

The City shall provide educational materials that explain the requirements of the Rules and the City's policies and procedures with respect to meeting these requirements. The City shall ensure that a copy of these materials is distributed to each driver prior to the start of testing, and to each driver subsequently hired or transferred into a position covered by the policy (See part II A.1.) The City shall provide written notice to representatives of employee organizations of the availability of this information.

The materials supplied to drivers may also include information on additional City policies with respect to the use or possession of alcohol or controlled substances, including any consequences for a driver found to have a specified alcohol or controlled substance level, that are based on the City's authority independent of the Rules. Any such additional policies or consequences must be clearly and obviously described as being based on independent authority.

Each driver/supervisor shall be required to sign a statement certifying that he/she has received a copy of the City policy/procedure, and has participated in a training session. The City shall maintain the original of the signed certificate and may provide a copy to the driver.

B. Training

The LRC shall be responsible for conducting the following training in conjunction with personnel from the EAP and Provider:

1. Training for Supervisor

The Rules require all persons designated to determine whether reasonable suspicion exists to require a driver to undergo testing, receive 120 minutes annually, on alcohol misuse and controlled substances use. The training shall cover the physical, behavioral, speech and performance indicators of possible alcohol misuse and use of controlled substances. Training will also include a description of types of testing required and testing procedures.

2. Education and Training for Employees

Each covered employee shall receive, annually, at least 60 minutes of education and training, which will address:

- Effects and consequences of alcohol and controlled substance use on personal health, safety and work environment;
- Manifestations and behavioral changes that may indicate controlled substance/ alcohol use or abuse; and
- Testing policies and procedures.

C. Referral, Evaluation and Treatment

All covered employees who engage in prohibitive conduct shall be referred to the City's Employee Assistance Program (EAP).

The EAP will provide a Substance Abuse Professional (SAP) to evaluate an appropriate course of assistance and referral. Employees will be provided with treatment alternatives and will be able to provide input into the recommendation made by EAP as to the suggested course of action. It is required that employees complete the entire recommended course of assessment, treatment and continuing care/follow-up. Lack of follow-through will result in the driver being dealt with in the same manner as if he/she had tested positive.

EAP shall be responsible for monitoring that drivers are in compliance with recommended course of treatment and follow-through.

A return to duty test is required, with the result of less than 0.02 BAC for an alcohol test, or a verified negative result for a controlled substance test.

Following completion of the recommended course of treatment, a negative result on an alcohol/controlled substance test, and the employee's return to duty, the employee shall be subject to unannounced follow-up alcohol/controlled substance tests, as directed by the LRC. This will consist of a least 6 tests in the first 12 months following the employee's return to duty. Follow-up testing shall not exceed 60 months for the date of return to duty.

V RECORD RETENTION, HANDLING OF TEST RESULTS AND CONFIDENTIALITY

A. Retention of Records

The City is required to maintain, for a minimum of five years, records of any alcohol test results of 0.02 BAC or greater, documentation of refusals to test; records of driver verified positive controlled substances test results; equipment calibration documentation; and documentation of driver evaluations and referrals. The City is required to retain for a minimum of two years any records related to the collection process (except equipment calibration documentation) and training. Records of negative test results must be maintained for a minimum of one year. The City is also required to retain records of negative and cancelled controlled substances test results and alcohol test results with a concentration of less than 0.02 BAC.

The following specific records shall be maintained:

1. Records related to Collection Process

- Collection logbooks, if used
- Documents related to the random selection process
- Calibration documentation for evidential breath testing devices (5 yrs.)
- Documentation of alcohol breath technician (training & proficiency)
- Documents verifying existence of a medical explanation of the inability of a driver to provide adequate breath or urine specimen
- Consolidated annual calendar year summaries as required by 382.403
- Records of the inspection and maintenance of each EBT used in employee testing
- Documentation of compliance with the Quality Assurance Program (QAP) for each EBT used in testing
- Documents generated in connection with decisions to administer reasonable suspicion alcohol or controlled substances tests
- Documents generated in connection with decisions on post accident tests

2. Records related to Drug Testing

- Agreements with collection site facilities, laboratories, medical review officers, and consortia
- Names and position of officials and their role in the employer's alcohol and controlled substances testing programs
- Monthly laboratory statistical summaries of urinalysis required by 40.29
- The employer's drug testing policies and procedures

3. Records related to Education and Training

- Materials on alcohol misuse and controlled substances use awareness, including a copy of the employer's policy on alcohol misuse and controlled substance use
- Documentation of compliance with the requirements of 382.601 (Employer obligation to promulgate above policy), including the driver's signed receipt of education materials
- Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol and/or controlled substances testing based on reasonable suspicion
- Certification that any training conducted under this part complies with the requirements for such training

4. Records related to a Driver's Test Results and Evaluations

- The employer's copy of the alcohol test form, including the results of the test
- The employer's copy of the controlled substances test chain of custody and control form
- Documents sent by the Medical Review Officer to the employer, including those required by 382.407
- Documents related to the refusal of any driver to submit to a required alcohol or controlled substance test
- Documents presented by a driver to dispute the result of an alcohol or controlled substances test
- Records related to other violations
- Records pertaining to a determination by a Substance Abuse Professional concerning a driver's need for assistance
- Records concerning a driver's compliance with recommendations of the Substance Abuse Professional

5. Medical Review Officer (MRO) Record Retention for Controlled Substances

- MRO shall maintain all dated records and notifications, identified by individual, for a minimum of five years for verified positive controlled substances test results
- MRO shall maintain all dated records and notifications, identified by individual, for a minimum of one year for negative and cancelled controlled substances test results
- Individual test results retained by the MRO shall not be released without first obtaining a specific, written authorization from the tested driver.

B. Reporting of Results/Management Information Systems

The City shall prepare and maintain an annual calendar year summary of the results of its alcohol and controlled substances testing programs administered under the Rules. By March 15 of each year, the City shall complete the annual summary covering the previous calendar year.

If the City is notified, during the month of January, of a request by the Federal Highway Administration to report the employer's annual calendar year summary information, the City shall prepare and submit the report to the FHWA by March 15 of that year.

If the City's annual calendar year summary contains only negative controlled substances test results, alcohol screening test results of less than 0.02, and does not contain any other violations, the City may prepare and submit (if required by the FHWA) either a standard report form or an EZ report form.

Each annual calendar year summary that contains information of a verified positive controlled substances test result, an alcohol screening test result of 0.02 or greater, or any other violation of the alcohol misuse provisions shall be written in the form and manner prescribed by the FHWA.

C. Access to Facilities and Records

Except under the following conditions or circumstances, the City shall not release driver information that is contained in records required to be maintained:

- The City shall make available copies of all results for employer alcohol and/or controlled substances testing conducted under this part and any other information pertaining to the employer's alcohol misuse and/or controlled substances use prevention program, when requested by the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the City or any of its drivers.
- When requested by the National Transportation Safety Board as part of an accident investigation, the City shall disclose information related to the City's Administration of a post accident alcohol and/or controlled substance test administered following the accident under investigation.
- Records shall be made available to a subsequent employer upon receipt of a written request from a driver. Disclosure by the subsequent employer is permitted only as expressly authorized by the terms of the driver's request.
- An employer may disclose information required to be maintained pertaining to a driver, the decision maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the individual, and arising from the results of an alcohol and/or controlled substance test, or from the employer's determination that the driver engaged in prohibited conduct (including, but not limited to a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the driver).

- specific, written consent of the driver authorizing release of the information to an identified person. Release of such information is permitted only in accordance with the terms of the employee's consent.
- Records will be released as required by law.

A driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substances tests. The City shall promptly provide the records requested by the driver. Access to a driver's records shall not be contingent upon payment for records other than those specifically requested.

The City shall permit access to all facilities utilized in complying with the requirements of this part to the Secretary of Transportation, any DOT agency, or any State or local officials with regulatory authority over the employer or any of its drivers.

D. Medical Review Officer (MRO) Notification to the City

A Medical Review Officer (MRO) is a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program, who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his or her medical history and any other relevant biomedical information.

The MRO may report to the City using any communications device, but in all instances a signed, written notification must be forwarded within three business days of completion of the MRO's review. The MRO shall report to the City the following:

- That the controlled substances test being reported was done in accordance with the regulations;
- The name of the individual for whom the test results are being reported;
- The type of test indicated on the custody and control form (i.e. random, post-accident, etc.);
- The date and location of the test collection;
- The identities of the persons or entities performing the collection, analysis of the specimens and serving as the medical review officer for the specific test;
- The verified results of a controlled substances test, either positive or negative, and if positive, the identity of the controlled substance(s) for which the test was verified positive.

A medical review officer shall report to the City that the MRO has made all reasonable efforts to contact the driver. The City shall, as soon as practicable, request that the driver contacts the MRO prior to dispatching the driver, or within 24 hours, whichever is earlier.

E. Employer Notifications

The City shall notify a driver of the results of a pre-employment controlled substance test, if the driver requests such results within 60 calendar days of being notified of the disposition of the employment application.

The City shall notify a driver of the results of random, reasonable suspicion and post-accident tests for controlled substances if the test results are verified positive. The City shall also inform the driver which controlled substance or substances were verified as positive.

The designated management official shall make reasonable efforts to contact and request each driver who submitted a specimen under the City's program, regardless of the driver's employment status, to contact and discuss the results of the controlled substances test with a medical review officer who has been unable to contact the driver.

The designated management official shall immediately notify the medical review officer that the driver has been notified to contact the medical review officer within 24 hours.

F. Release of Alcohol and Controlled Substances Test Information by Previous Employers

An employer may obtain, pursuant to a driver's written consent, any of the information concerning the driver, which is maintained under these regulations by the driver's previous employers.

An employer shall obtain, pursuant to a driver's consent, information on the driver's alcohol tests with a concentration result of 0.04 or greater, positive controlled substances test results, and refusals to be tested, within the preceding two years, which are maintained by the driver's previous employers under these regulations.

The above mentioned information must be obtained and reviewed by the employer no later than 14 calendar days after the first time a driver performs safety-sensitive functions for an employer, if it is not feasible to obtain the information prior to the driver performing safety-sensitive functions. An employer may not permit a driver to perform safety-sensitive functions after 14 days without obtaining the information.

If the driver stops performing safety-sensitive functions for the employer before expiration of the 14-day period or before the employer has obtained the above referenced information, the employer must still obtain the information.

The prospective employer must provide to each of the driver's employers within the two preceding years the driver's specific, written authorization for release of this information.

The release of any information may take the form of personal interviews, telephone interviews, letters, or any other method of obtaining information that ensures

confidentiality. Each employer must maintain a written, confidential record with respect to each past employer contacted.

An employer may not use a driver to perform safety-sensitive functions if the employer obtains information on the driver's alcohol test with a concentration of 0.04 or greater, verified positive controlled substances test result, or refusal to be tested, by the driver, without obtaining information on a subsequent substance abuse professional evaluation and/or determination of compliance with recommendations of the substance abuse professional and undergoing a return-to-duty test with results indicating an alcohol concentration of less than 0.02 and a controlled substance test with a result indicating a verifies negative result.

VI IMPLEMENTATION PROCEDURES

AUTHORITY:

The Omnibus Transportation Employee Testing Act of 1991, as amended (hereinafter the "ACT"), requires the Secretary of Transportation to promulgate regulations for alcohol and controlled substance testing for persons in safety-sensitive positions in four modes of transportation – motor carrier, airline, railroad and mass transit.

Section V of the Act addresses requirements specific to employers who own or lease commercial motor vehicles (CMVs) or assign persons to operate such vehicles (49 U.S.C.-2717).

The Federal Highway Administration (FHWA) published, on February 15, 1994, a final rule for alcohol and controlled substance testing which extends the testing requirements for alcohol and controlled substances to intrastate drivers holding a Commercial Driver's License (CDL) and performing safety-sensitive functions.

This includes CMVs operated by Federal, State and local government agencies. (49 CFR part 382 et al)

All Testing for alcohol and controlled substances is conducted under rules which comply with the procedures in the amended 49 CFR part 40.

The City of Columbus, in order to comply with the above cited federal regulations has published the Commercial Driver's License Drug and Alcohol Testing Policy. The following procedures will be instituted to implement that policy.

Oversight responsibility for implementation of these procedures, adherence to the City's Commercial Driver's License Drug and Alcohol Policy and compliance with all federal rules and regulations under the Act, will be directed by the Department of Administrative Services, under the purview of the Human Resources Division. Within the Human Resources Division the position of Labor Relations Coordinator (LRC) will hold direct responsibility for overseeing the implementation of the City policy and compliance with all applicable federal regulations.

PROCEDURES:

The Department of Administrative Services, Labor Relations Coordinator will first ensure that the Drug and Alcohol Testing Provider (hereinafter the "Provider") has an updated list of all City of Columbus employees covered under the Act.

A. Drug Testing Procedures

The procedure for referral of covered employees to the City of Columbus Commercial Driver's License Drug and Alcohol testing process is as follows:

1. Pre-employment Testing

- a. The Department/Division requests, from Civil Service, a conditional certification list to make a conditional offer of employment.
- b. Subsequent to a conditional offer of employment, the designated Personnel Officer shall refer the candidate to the Provider for testing.
- c. The Provider notifies the designated Personnel Officer of test results within five (5) working days.
- d. Within twenty-four (24) hours of receiving test results, the designate Personnel Office contacts the LRC with test results.
- e. After all candidates receiving conditional offers of employment have been tested and results forwarded to the appropriate authority (Personnel Officer). That authority requests a final certification list.
- f. Appointing Authority appoints appropriate candidates.

2. Post Accident Testing

Immediately following an accident:

- a. The employee involved in the accident shall be responsible for the immediate notification of his/her immediate supervisor, or if unavailable, the next highest person in the chain-of-command.
- b. A supervisor shall immediately go the scene of the accident.
- c. In the following circumstances, a drug/alcohol test shall be administered:
 - 1.) If the LRC finds reasonable suspicion to believe the employee may be under the influence of alcohol and or controlled substances. (See Reasonable Suspicion, Section I.D.)
 - 2.) If there is a fatality as a result of the accident, or
 - 3.) The employee receives a citation for a moving violation arising from the accident.
- d. Under any of the above circumstances, the supervisor shall immediately transport the employee to the specimen procurement site and notify the LRC at the time the employee is being tested.

- e. and make arrangements to have the employee's specimens obtained after such treatment is received.
- f. If the employee test results are negative, he/she may return to work, subject to the requirements of all CDL legislation and regulations governing that process.
- g. If the employee test results are positive in any category, the *Procedure for Positive Test Results* (See Part II) shall be followed.

2. Random Testing

Testing under this provision of the Act may occur at any time on a random basis.

- a. The Provider shall submit to the LRC a list of those employees randomly selected to be tested. Such list shall be sufficient in number to adjust for employees on leave.
- b. The LRC will notify the designated Personnel Officers for those Departments/Divisions whose employees are being tested as to the time and location of the test.
- c. Employees to be tested must appear at the collection site within one (1) hour of notification.
- d. The LRC shall ensure that the employee, Personnel Officer, the Division Administrator and EAP are notified of positive test results.
- e. The employee shall continue to perform all job functions until test results are available, unless Evidential Breath Testing (EBT) results are positive, in which case return to work will be subject to the *Procedure for Positive Test Results* (Part II).

4. Reasonable Suspicion Testing

Any employee may be directed by the employer to only undergo reasonable suspicion testing prior to, during, or just after the employee has ceased performing safety sensitive functions.

- a. Any supervisor or other employee believing that a covered employee is under the influence of drugs or alcohol shall report the name of the employee and all such detailed evidence to the employee's immediate supervisor (or if unavailable, another supervisor in the employee's chain of command).
- b. If the covered employee's supervisor after observing the covered employee determines that, based upon the appearance, behavior, speech or body odors of the employee, there is a reasonable

- a. suspicion to believe the employee is under the influence of drugs or alcohol, the supervisor shall provide evidence of such influence to the LRC. Based on such evidence, if the LC finds reasonable suspicion exists, he shall require the employee to submit to a drug and alcohol test.
- b. Upon approval by the LRC, the supervisor shall make arrangements to have the employee immediately transported to the nearest specimen procurement site.
- c. With respect to controlled substance reasonable suspicion testing, within 24 hours of the observed behavior or before the results of a controlled substance test are released, whichever is earlier, the supervisor who made the observations leading to the reasonable suspicion test shall make and sign a written record identifying such observations on the form provided by the city.
- d. If a reasonable suspicion determination has been made regarding alcohol use, the employee shall not perform safety sensitive functions until an alcohol test is administered and the employee's alcohol concentration measures less than .02 or until 24 hours have lapsed, following the reasonable suspicion determination. If a reasonable suspicion determination has been made regarding controlled substance use, the employee shall not perform safety sensitive functions until a controlled substance test is administered and the employee has tested negative;
- e. If the test results are positive in any category, the employee is subject to the *Procedure for Positive Test Results* (Section II).

2. Return-to-Duty Testing

- a. The Employee Assistance Program (EAP) shall notify the LRC when an employee is currently in compliance with the EAP's recommendations.
- b. The LRC shall make a referral to the Provider for a return-to-duty test.
- c. Upon receipt of the test results, the LRC will make a determination regarding the return to duty status of the employee and notify the designated Personnel Officer of that determination.
- d. The designated Personnel Officer shall notify the employee of his/her return to work status.

Follow-up Testing

It shall be the responsibility of the LRC to ensure that individuals who test positive are subject to random follow-up testing at least six (6) times in the 12 month period following completion of treatment, up to a maximum time period of sixty (60) months.

B. Procedure for Positive Test Results

1. The MRO shall notify the employee, confidentially, to determine whether the employee wishes to discuss a positive test result for drugs.
If the MRO is unable to contact the employee, the MRO shall report to the LRC that all reasonable efforts have been made to contact the employee. The LRC shall request that the employee contact the MRO prior to his/her performing a safety-sensitive function, or within 24 hours, whichever is earlier.

The MRO will notify the LRC to very final test status.

If a positive test result for drugs is received, the employee shall not be permitted to perform safety-sensitive functions and shall be subject to paragraphs D through G below.

2. The Breath Alcohol Technician (BAT) shall immediately notify the LRC of positive test results for alcohol.
 - a. If the results indicate an alcohol concentration of .04 or greater, the employee shall not be permitted to perform safety-sensitive functions and shall be subject to paragraphs D through G below.
 - b. If the results indicate an alcohol concentration of .02 or greater but less than .04, the employee shall not be permitted to perform safety-sensitive functions until the start of the driver's next scheduled duty period, but not less than 24 hours following the test. The employee shall not be subject to paragraphs D through G below.
3. The LRC shall notify the employee, the designated Personnel Officer, the Division Administrator and the EAP of a confirmed positive test result for drugs and/or alcohol. The Personnel Officer will notify the employee's immediate supervisor of the employee's time off only.
4. The LRC shall refer the employee to the EAP.
5. The employee shall notify and meet with the SAP/EAP the next EAP working day. After regular EAP business hours, the LRC will notify the EAP, who will contact the employee to make arrangements to assess the employee at the next available time.
6. The SAP will assess the employee, make an appropriate referral, and monitor the employee's progress.
7. Procedures for return to duty are explained in Part I, Section E.

Requirements for record retention, reporting of results and access to facilities and records can be found in the City of Columbus Commercial Drivers License Drug and Alcohol Testing Policy Part V, Section A, B, C, and 49 CFR parts 40 and 382 et al.

Implementation of, and the responsibility for, these requirements will be determined by the LRC in conjunction with the Provider, the MRO, EAP, and the covered City departments.

These implementation procedures will consist of, but not be limited to, development of a records retention procedure, maintenance and custody of files and records, departmental records, and documentation of notification of employees.

VII DEFINITIONS OF ABBREVIATIONS

- Act: The Omnibus Transportation Employee Testing Act of 1991
- BAC: Blood Alcohol Concentration; measure of the amount of alcohol in the blood
- BAT: Blood Alcohol Technician; an individual who instructs and assists individuals in the alcohol testing process and operate an EBT
- CDL: Commercial Driver's License
- CMV: Commercial Motor Vehicle
- DHHS: Department of Health and Human Services (Federal)
- DOT: Department of Transportation (Federal)
- EAP: Employee Assistance Program (City)
- EBT: Evidential Breath Testing Device; approved breath testing device for measuring the blood alcohol concentration
- FHWA: Federal Highway Administration
- FMCSR: Federal Motor Carrier Safety Regulations
- GC/MS: Gas Chromatography/Mass Spectrometry: authorized confirmation method for cocaine, marijuana, opiates, amphetamines and phencyclidine (PCP)
- LRC: Labor Relations Coordinator in the City's Department of Administrative Services, Division of Human Resources
- MRO: Medical Review Officer; a Medical Review Officer (MRO) is a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program, who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test

result, together with his or her medical history and any other relevant biomedical information

NHWTSA: National Highway Traffic Safety Administration

SAP: Substance Abuse Professional; evaluates an appropriate course of assistance and referral for employee who tests positive on drug and/or alcohol test

QAP: Quality Assurance Program; drug testing labs shall have a QAP which encompasses all aspects of the procurement and testing process